

Luxembourg: New Performance Fee Declaration

On 22 September 2021, Luxembourg's financial regulator, the *Commission de Surveillance du Secteur Financier* ("CSSF"), issued a press release¹ announcing the launch of a new performance fee module on its eDesk platform².

Investment fund managers ("IFMs") that manage Luxembourg-based UCITS or AIFs, irrespective of whether they are subject to a performance fee, are required to complete a performance fee declaration on the eDesk platform from 30 September 2021.

Background

The requirement to complete a declaration follows the publication of CSSF's circular 20/764³, which confirmed that the CSSF has integrated the European Securities and Markets Authority's guidelines on performance fees in UCITS and certain types of AIFs (the "Guidelines"⁴) into its administrative practices and regulatory approach, and will enable the CSSF to capture standardised key information in relation to performance fees and ensure compliance with the Guidelines.

Deadlines

The declaration will be available from 30 September 2021 for all funds with a July to December 2021 financial year end and from January 2022 for all funds with a January to June 2022 financial year end.

The deadline for submission of the initial declaration will be set out in the IFM's performance fee eDesk dashboard, however for funds with a July and September 2021 financial year end, the deadline for submission of the initial declarations is 30 November 2021.

A declaration must also be submitted in respect of funds and sub-funds that are not subject to a performance fee; funds that did not launch following CSSF approval as well as funds that became inactive following the full redemption of their shares or units.

Ongoing Obligation

In the event of changes to the initial declaration, for example the introduction of a performance fee for the first time or changes in respect of the performance fee model, IFMs must update the performance fee declaration.

To facilitate this, a specific update option will be included in the eDesk platform in the near future and this must be utilised in parallel to filing an updated prospectus / offering memorandum with the CSSF in the usual manner.

An eDesk user linked to the IFM may complete and submit the performance fee declaration and any subsequent updates. Further information is available on the eDesk platform.

¹ https://www.cssf.lu/en/2021/09/investment-fund-managers-are-invited-to-declare-via-a-new-dedicated-edesk-application-the-performance-fee-models-applicable-to-luxembourg-ucits-or-aif-they-manage/?utm_campaign=email-210922-c7159

² <https://edesk.apps.cssf.lu/edesk-dashboard/dashboard/getstarted>

³ <https://www.cssf.lu/en/Document/circular-cssf-20-764/>

⁴ https://www.esma.europa.eu/sites/default/files/library/esma34-39-992_guidelines_on_performance_fees_en.pdf

For further information, please reach out to your usual Maples Group contact or any of the persons listed below.

Luxembourg

Johan Terblanche

+352 28 55 12 44

johan.terblanche@maples.com

Michelle Barry

+352 28 55 12 47

michelle.barry@maples.com

Nelly Zhang

+352 28 55 12 68

nelly.zhang@maples.com

October 2021

© MAPLES GROUP

This update is intended to provide only general information for the clients and professional contacts of the Maples Group. It does not purport to be comprehensive or to render legal advice.

In Luxembourg, the Maples Group provides full service legal advice through our independent law firm, Maples and Calder (Luxembourg) SARL, which is registered with the Luxembourg Bar.